



SF 2338 – Assault Without Intent to Inflict Serious Injury (LSB 5214SV)
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Fiscal Note Version – New
Requested by Senator Keith Kreiman

Description

Senate File 2338 modifies the provisions related to an assault causing serious injury. The offense is a non-forcible felony and is not subject to a mandatory minimum prison sentence. The Bill also permits the court to extend probation for up to one year, including one year beyond the maximum period, for a violation of probation. This provision applies to criminal offenses committed on or after July 1, 2010. This Bill also amends the definition of serious injury offenses to be consistent across the Iowa Code. The Bill modifies the elements to prove a Class D felony offense of intimidation with a dangerous weapon by adding “recklessly” to the offense.

Background

Correctional and Fiscal Information

- Provisions of the Bill relating to abuse of a corpse, detention in a brothel, simulated public intoxication, and cowl lamps have no significant minority, correctional, or fiscal impact.
- Current law provides for a graduated system of penalties for assault, ranging from a simple misdemeanor to a Class C felony.
- There were 31 offenders convicted of assault causing serious injury in FY 2009. Of these, 19 were admitted to prison and 12 were admitted to probation.
- In FY 2009 there were 3,708 felony and 12,547 misdemeanor offenders admitted to probation.
- There were 170 probation offenders revoked to prison during FY 2009 for reasons other than a new arrest.
- There is no cost impact on the Judicial Branch or indigent defense for the probation extension sentencing option.
- There were no convictions for serious injury offenses in FY 2009. There were three convictions in FY 2008.
- In FY 2009 there were 14 offenders convicted of intimidation with a weapon for either the C or D felony.
- The marginal cost per day for prison is \$18.29.
- The average daily cost for probation is \$3.64.

Minority Data Information

- For the 19 offenders sentenced to prison in FY 2009 for assault causing serious injury, 14 were white (73.7%), four were black (21.1%), and one was Hispanic (5.2%).
- Of the 170 probation revocations to Iowa prisons in FY 2009, 19.4% were black, 3.5% were Hispanic, 2.4% were Native American, 1.2% were Asian, and 73.5% were white.
- According to the CJJPD, 72.9% of offenders on probation on June 30, 2009, were men. Approximately 80.2% of offenders on probation are white; 12.6% are black; 5.1% are Hispanic or Latino; 1.1% are American Indian or Alaska Natives; and 1.0% are Asian or Pacific Islander.

- For the FY 2009 convictions for felony intimidation, there were 10 offenders where race was known, and 40.0% were black.
- The U.S. Census estimate for Iowa was 3.0 million people as of July 1, 2008 (the most current estimates available). Men comprise 49.3% of the population. Approximately 92.0% of Iowa's population is white. The composition of the remaining 8.0% is: 3.2% black, 0.3% American Indian or Alaska Native; 1.7% Asian; and 2.8% is of two or more races or unknown.
- Iowa's prison population was 8,454 offenders on June 30, 2009. Men comprise 92.1% of the population. According to the Criminal and Juvenile Justice Planning Division (CJJPD) of the Department of Human Rights, the racial composition of the prison system was: 71.4% white; 25.8% black; 0.9% Asian or Pacific Islander; and 1.9% American Indian or Alaska Native. Included in these racial groups were 6.7% that identified themselves as Hispanic (nearly all of these identified themselves racially as being white).
- According to the CJJPD, on June 30, 2009, approximately 7.9% of the offenders in prison were women and 26.5% of offenders under supervision in Community-Based Corrections (CBC) were women. Approximately 21.9% of the total offender population under correctional supervision was women.

Assumptions

Correctional and Fiscal Information:

Assault provisions: It is not possible to determine how many offenders would be sentenced to probation under the Bill, as compared to those sentenced to prison under current law.

Probation extension: For the provision relating to probation extension, the number of offenders on probation may increase, depending on how the sentencing option is applied. The number of probation offenders revoked to prison may decrease, if judges choose to use this sentencing option.

Minority Data Information: Approximately 14.0% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.0%.

Summary of Impacts

Correctional Impact:

The correctional impact is not anticipated to be significant for the provisions related to assault.

For the provisions related to probation extension, if 10.0% of probation offenders currently revoked to prison for two years were to remain on probation, the prison population would decrease by 34 offenders in FY 2013. The impact would be significantly less in FY 2011 or FY 2012 because this sentencing option is not available for those offenders currently on probation. If judges extend probation for offenders for reasons other than technical violations, such as failure to pay restitution, there could be a significant increase in probation caseloads. That impact cannot be determined due to a lack of data.

Minority Impact:

To the extent the changes to assault provisions result in fewer sentences to prison, there may be a slight reduction in minority confinement. That reduction is not anticipated to be significant. Offenders would be under correctional supervision in the community rather than the prison system.

To the extent that probation extensions are used in lieu of prison, there may be a slight decrease in confinement of minorities. These offenders would remain in the correctional system, but on probation rather than prison.

To the extent the changes to the offenses of serious injury or intimidation results in fewer sentences to prison, there may be a slight reduction in minority confinement. The reduction is not anticipated to be significant.

Fiscal Impact:

The fiscal impact is not anticipated to be significant for the provisions related to assault, serious injury, or intimidation.

For probation extension, the fiscal impact cannot be determined due to a lack of data. If 34 offenders were diverted from prison, there would be a net savings of \$182,000 in FY 2013. Savings are not anticipated to be significant in FY 2011 or FY 2012. If 34 offenders received a probation extension, probation costs are expected to increase by \$45,000 in FY 2013. Costs are not anticipated to be significant in FY 2011 or FY 2012.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections

/s/ Holly M. Lyons

February 17, 2010

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56, Code of Iowa](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
